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NEW DELHI, SATURDAY, JULY 3, 1993/ASADHA 12, 1915

इस खण्ड में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii) PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासन को छोड़कर) द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 13 मई, 1993

आ.अ. 93 --भारत निर्वाचन आयोग 1990 की निर्वाचन
अर्जी सं. 1 में गुजरात उच्च न्यायालय, अहमदाबाद, 8-भावनगर संसदीय
निर्वाचन क्षेत्र से लोक सभा के लिए निर्वाचित श्री जामोद शशीकान्त
मावजीभाई के निर्वाचन को प्रश्नगत करने वाली तारीख 19-7-1991
वाले निर्णय/आदेश को लोक प्रतिनिधित्व अधिनियम, 1951 (1951
का 43) की धारा 106 के अनुसरण में इसके द्वारा प्रकाशित करता
है।

[सं. 82/गुजरात-लो.सं./ (90 का 1)/93]
आदेश से,
बलवन्त सिंह, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 13th May, 1993

O.N. 93.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgment dated 19-7-1991, of the High Court of Gujarat at Ahmedabad, in Election Petition No. 1 of 1990, calling in question the election of Shri Jamod Shashikant Mavjibhai to the House of the People from 8-Bhavnagar Parliamentary constituency.

[No. 82/GJ-HP/(1 of 90)/93]

By Order,
BALWANT SINGH, Secy.

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD ELECTION PETITION NO. 1 OF 1990

AND

RECRIMINATION PETITION NO. 1 OF 1990

Shri Pravinsinhji Ratansihhi Jadeja —Petitioner

Versus

Shri Arjunbhai Bhagabhai Natarwala
& others. ---Respondents.

Corm : M. B. SHAH. J.

CRAL JUDGEMENT :

ELECTION PETITION NO. 1 OF 1990

and

RECRIMINATION PETITION NO. 1 OF 1990

Date of Decision—19th July 1991

The Non' able	Mr. Justise	M. B. Singh
No. (1)	Yes.
Nos. (2) to (5)	Nos.

Election Petitioner No. 1/90

Mr. K. S. Zaveri—for the Petitioner.

Mr. K. M. Patel—for respondent No. 6.

Respondents Nos. 1 to 5 & 7 to 15 served.

Respondents Nos. 16 & 17 deleted.

Recrimination Petition No. 1/90

Mr. K. M. Patel—for respondent No. 6.

Copy to served petitioner's advocates Mr. K. S. Zaveri
& Mr. M. R. Anand

CORAM : M. B. SHAH. J.
(19-7-91)

CRAL JUDGMENT

In the aforesaid Election Petition the Petitioner was a candidate for election of 8-Bhavnagar Parliamentary Constituency for which election was held on 24th November 1989. The petitioner secured 1,42,732 votes while on Jamod Shashikant Mayjibhai (deceased) respondent No. 1 secured 1,43,284 votes. Therefore, it was declared that the petitioner has lost election by a margin of 552 votes. In the election petition various allegations are made with regard to alleged corrupt practices committed by respondent No. 5

However, pending disposal of the election petition the original respondent No. 6 the elected candidate expired on 19-9-90. The matter was repeatedly adjourned at the request of the learned advocates for the parties for production of death certificate. After the death certificate was produced, notice of such event was published in official Gazette as provided under section 116 of the Representation of People Act, 1951. That notice was published in Gujarat Government Gazette dated November 29, 1990. In spite of the notice, none had filed any application for being substituted for the original respondent No. 6 to oppose the election petition.

Considering the fact that original respondent No. 6 against whom various allegations are made, has expired, it is apparent that the cause of action against him would not survive. The allegations of corruption cannot be inquired into and adjudicated upon in absence of respondent No. 6. Therefore, the petition would not survive. Further, Recrimination Petition No. 1 of 1990 of respondent No. 6 also would not survive.

Mr. Zaveri, learned advocate who is appearing for the original petitioner, submitted that apart from the fact that respondent No. 6 has expired, at present the cause of action of filing this election petition would also not survive in the view of the fact that the 9th Lok Sabha had been dissolved and fresh Parliamentary election had taken place in June 1991.

In view of the aforesaid facts, in my view no cause of action for the Election Petition No. 1 of 1990 would survive. Hence it is required to be dismissed and is, therefore, dismissed with no order as to costs. The Registrar is directed to refund the amount deposited by the petitioner.

Similarly Recrimination Petition No. 1 of 1990 also would not survive and is, therefore, dismissed with no order as to costs. The Registrar is directed to refund the amount deposited by respondent No. 6 in Recrimination Petition No. 1 of 1990 to his heirs and legal representatives if they file proper application for grant of refund.

नई दिल्ली, 17 जून, 1993

आ.अ. 94—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करत हुए, भारत निर्वाचन आयोग ने लक्षद्वीप संघ राज्य क्षेत्र के प्रशासन के परामर्श से श्री जी.एस. चोमा के स्थान पर श्री बी. विजयन, आई.ए.एस., कलक्टर एवं विकास आयुक्त, लक्षद्वीप को कार्यभार ग्रहण करने की तारीख से और अगले आदेशों तक लक्षद्वीप संघ राज्य क्षेत्र के लिए मुख्य निर्वाचन अधिकारी के रूप में नामित करता है। उन्हें निर्वाचन आयोग के अधीन निर्वाचनों से संबंधित संघ राज्य-क्षेत्र प्रशासन में निर्वाचनों से संबंधित विभाग में सरकार के सचिव के रूप में पदाभिहित किया जाएगा।

2. आयोग लक्षद्वीप संघ राज्य क्षेत्र के लिए पूर्णकालिक मुख्य निर्वाचन अधिकारी रखने के लिए दबाव नहीं डाल रहा है क्योंकि संघ राज्य क्षेत्र में 2 से अधिक संसदीय निर्वाचन क्षेत्र नहीं हैं।

3. श्री विजयन लक्षद्वीप के मुख्य निर्वाचन अधिकारी के रूप में कार्य करते हुए आयोग की लिखित पूर्वानुमति के बिना लक्षद्वीप सरकार के अधीन और कलक्टर एवं विकास आयुक्त के रूप में धारित कार्यभार के अतिरिक्त अन्य कार्यभार ग्रहण नहीं करेंगे।

4. यदि श्री विजयन को कलक्टर एवं विकास आयुक्त के रूप में कार्य के अतिरिक्त आयोग की लिखित पूर्वानुमति लिए बिना किसी भी

प्रकार का कोई अतिरिक्त प्रभार सौंपा जाता है तो इस आदेश की शर्तों के अनुसार श्री विजयन को ऐसा अतिरिक्त कार्यभार ग्रहण करने की तारीख से मुख्य निर्वाचन अधिकारी, लक्षद्वीप के पद से हटा दिया जाना जाएगा और कोई अन्य आदेश न तो जारी किया जाएगा अथवा जारी करना आवश्यक समझा जाएगा। इसके पश्चात् मुख्य निर्वाचन अधिकारी के रूप में उनकी इच्छाओं और कृत्यों के निर्वाह में की गई सभी अथवा कोई भी कार्रवाई अप्राधिकृत अधिकारियों सहित, नरित और व्यर्थ तथा शून्य मानी जाएगी और अपने आपको अनुशासनात्मक कार्रवाई के लिए प्रस्तुत करना होगा।

[सं. 154/लक्षद्वीप/93]

आदेश से,

के.पी.जी. कुट्टी, सचिव

New Delhi, the 17th June, 1993

O.N. 94.—In exercise of the powers conferred by sub-section (1) of Section 13A of the Representation of the People Act, 1950 (43 of 1950) the Election Commission of India, in consultation with the Administration of Union Territory of Lakshadweep hereby nominates Shri B. Vijayan IAS, Collector-cum-Development Commissioner, Lakshadweep as the Chief Electoral Officer for the Union Territory of Lakshadweep with effect from the date he takes over charge and until further orders vice Shri G. S. Chima. He will also be designated as Secretary to Government in the department dealing with elections under the Election Commission in the Union Territory Administration.

2. The Commission is not insisting on a full-time Chief Electoral Officer in the Union Territory of Lakshadweep as the Union Territory has not more than two Parliamentary Constituencies.

3. Shri Vijayan, while functioning as Chief Electoral Officer, Lakshadweep, shall not hold, without the prior written approval of the Commission, any additional charge, whatsoever, under the Government of Lakshadweep over and above the charges held by him as Collector-cum-Development Commissioner.

4. If Shri Vijayan is entrusted with any additional charge other than those held by him as Collector-cum-Development Commissioner, without the prior written approval of the Commission, Shri Vijayan will stand removed from the office of the Chief Electoral Officer, Lakshadweep from the date of assumption of any such additional charge in terms of this very Order and no other Order will, or need to, be issued. All and any action taken by him thereafter in the discharge of his duties and functions as the Chief Electoral Officer, shall be unauthorised without jurisdiction, non-est and null and void and he shall render himself liable to disciplinary action.

[No. 154/LKD/93]

By Order,

K. P. G. KUTTY, Secy.

नई दिल्ली, 18 जून, 1993

आ.अ. 95—भारत निर्वाचन आयोग 1991 की निर्वाचन अर्जी सं. 4 में गुजरात उच्च न्यायालय, अहमदाबाद, 24-सूरत संसदीय निर्वाचन क्षेत्र से लोक सभा के लिए निर्वाचित श्री काशीराम राणा के निर्वाचन को प्रश्नगत करने वाले तारीख 14-8-92/28-4-93 के निर्णय/आदेश को लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में हटाने का प्रस्तावित करता है।

[सं. 82/गुजरात-लो.स./ (1991 का 4)/93]

आदेश से,

बलवन्त सिन्हा, सचिव

New Delhi, the 18th June, 1993

O.N. 95.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission of India hereby publishes the Judgment/Order, dated 14-8-1992/28-4-1993, of the High Court of Gujarat at Ahmedabad, in Election Petition No. 4 of 1991, calling in question the election of Shri Kashiram Rana to the House of the People from 24-Surat Parliamentary constituency.

[No. 82/GJ-HP/(4 of 1991)/93]
BALWANT SINGH, Secy.

IN THE HIGH COURT OF GUJARAT AT AHMADABAD

ELECTION PETITION NO. 4 OF 1991

WITH ELECTION APPLICATION NO. 6 OF 1992.

Shri Sahadev Sherabhai Chaudhari, District Panchayat
President's Bungalow, Opp. Chaupati, thana Lines,
Surat.

..Petitioner.

Versus

Shri Kashiram Rana, at 10/1144 (A), Kanaiyalal Desai
Road, Havadia Chakla, Gopipura, Street.

...Respondent.

Mr. Sojal Mandavia Learned Advocate for the petitioner.
Mr. M. L. Patel learned Advocate for respondent.

Coram : S. D. Dava J.—14-8-1982.

Judgment recd. on : 2-9-1992.

Title prepared on : 2-9-1992.

Election Petition No. 4 of 1991 with Election Application
No. 6 of 1992.

14th August, 1992.

MR. S. D. DAVE

Ms. Sejal Mandaviya Ld. Advocate for the Petitioner.

Mr. H. L. Patel Ld. Advocate for Respondent.

JUDGMENT :

Coram : S. D. DAVE, J. Dt. : 14-8-1992.

The Election Petition has been filed by Shri Sahadev Chaudhari the petitioner—a defeated candidate challenging the election of the respondent Shri Kashiram Rana—the returned candidate. This Election Application No. 6/92 is now being submitted to-day on 14-8-1992 saying that because of the reasons elaborately assigned in the petition, the petitioner Shri Sahadev Chaudhari wants to withdraw the petition. The copy of the application has been duly served on the Ld. Advocate Mr. B. L. Patel on behalf of the respondent. It appears that Mr. Patel the Ld Advocate for the respondent has no objection so far as the withdrawal of the Election Petition is concerned.

Looking to the provisions contained in Sec. 110 of the Representation of Peoples Act, 1951, certain procedural aspects are required to be taken care of. The petitioner has stated the reasons or the grounds for withdrawal. The petitioner has stated that he is busy with the impending District Panchayat Election and Surat Municipal Corporation Election which are likely to be held in December, 1992. It is also stated by the petitioner that he is very busy with the activity of the All India Panchayat Parishad, New Delhi, of which he happens to be the President. Thus, it appears that the petitioner has assigned the reasons or the grounds for making out a case of withdrawal. It also very clearly appears that this application for withdrawal is not induced by any bargain or consideration due to which the present Election Application ought not to be allowed. Looking to this position and further looking to the grounds or the reasons mentioned by the petitioner for withdrawal, it appears that the permission to withdraw requires to be granted, and the same is hereby granted.

The Ld. Advocate Mr. Patel who appears on behalf of the respondent says very clearly that looking to the facts and circumstances of the case, he does not press for the cost of the respondent. Naturally therefore, there shall be no order as to cost for the respondent in the Election Petition.

In view of the provisions contained under section 110 (3) (b) now it is hereby directed that the notice of the withdrawal be published in the Official Gazette. It is hereby also ordered and directed that the notice of withdrawal be published in the Gujarati Daily known as 'Gujarat Mitra' having a wide circulation in the constituency concerned. This matter be placed before this Court for taking further actions as envisaged under section 110(3)(c) of the Act, 1951, after the above said formalities are over.

The petitioner Shri Sahadev Chaudhari is present before this Court in company of Ld. Advocate Ms. Sejal Mandavia Mr. Sahadev Chaudhari the petitioner makes a statement that he wants to withdraw the petition on the grounds and the reasons assigned by him in the petition and that there is absolutely no case of any inducement or bargain or any other consideration, on which this Court may not allow the withdrawal. Upon the inquiry from the petitioner, this Court is perfectly satisfied that there is no inducement or bargain or any other consideration for the withdrawal of the petition. This Court is further satisfied that the petitioner craves leave to withdraw the petition on the grounds of the reasons elaborately mentioned in the petition.

The petitioner shall deposit an amount of Rs. 500/- as the cost for publication of the notice in the Official Gazette and the Gujarati daily as indicated above initially at this juncture.

Dt. 3-9-1992.

By the Order of the Court

Sd./-

S. C. SHAH, Additional Registrar.

IN THE COURT OF GUJARAT AT AHMEDABAD

ELECTION PETITION NO. 4 OF 1991 WITH ELECTION

APPLICATION NO. 6 OF 1992

Shri Sahadev Bherabhai Chaudhari, District Panchayat
President's Bungalow, Opp. Chaupati, Athwa Lines,
Surat.

.. Petitioner

Versus

Shri Kashiram Rana, at 10/1144(A), Kanaiyalal Desai
Road, Mavadia Chakla, Gopipura, Surat.

.. Respondent

Mr. Sejal Mandaviya Learned Advocate for the petitioner.

Mr. H. L. Patel Learned Advocate for respondent.

Coram : S. D. Dave, J.
28-4-1993

Judgment recd. on : 1-5-1993.

Title prepare on : 17-5-1993

April 28, 1993

ELECTION PETITION NO. 4 OF 1991

WITH

ELECTION APPLICATION NO. 6 OF 1992

Mr. S. D. DAVE

Mr. Sejal Mandaviya Learned Advocate for the Petitioner.

Mr. H. L. Patel, learned Advocate for Respondent.

Coram : S. D. Dave, J

Dt. : April 28, 1993

Judgment :

The defeated candidate had challenged the election of the returned candidate by filing the present election petition. Later on the election application No. 6 of 1992 was moved by the petitioner seeking the permission to withdraw the petition. After hearing the learned advocates, by the orders dated 14th August 1992 the permission to withdraw was accorded. Anyhow, looking to the provisions contained under Sec. 110 (3) (b) of the People of the Representation Act, 1951, the notice of the withdrawal was ordered to be published in the official gazette as well as the Gujarati daily known as 'Gujarat Mitra' having a wide circulation in the concerned constituency. The matter was ordered to be placed before this Court for taking further actions as envisaged under section 110 (3) (c) of the Act of 1951.

The notice of withdrawal has been published in the Gujarat Government Gazette dated 17th September 1992 which is on the record of the petition. In the same way the notice of the withdrawal has been duly published in the daily "Gujarat Mitra" in its issue of 15th September 1992. Thus the notices of withdrawal have been duly published both in the Gazette as well as in the aforesaid Gujarati daily having a wide circulation in the constituency concerned.

It requires to be noticed that any person who might himself have been a petitioner could have applied to this Court for his substitution as the petitioner in place of the party withdrawing. This position is abundantly clear, regard being had to the provisions contained under section 110 (3) (c) of the Act of 1951. Anyhow it requires to be noticed that nobody has applied to this Court for his or her substitution as a petitioner in place of the party withdrawing. In view of this fact situation, now the report of the withdrawal be sent to Election Commission as envisaged under section 110 of the Act, 1951. On the report of the fact of withdrawal, the Election Petition shall stand disposed of alongwith other ancillary proceedings. No order as to costs.

The Registry is directed to report the withdrawal as envisaged under the aforesaid provisions forthwith to the Election Commission.

By the order of the Court
B. D. DHOLAKIA, Dy. Registrar

मुद्रित

नई दिल्ली, 9 जून, 1993

आ.अ. 96.—तारीख 9 जून, 1992 के आयोग के आदेश संख्या 76/महा. वि.स./92 (736-821) में गवांटे वसन्ती श्रीकान्त(म) स्थान-कर्मोडा, पो.आ. लाडनापुर, तालुक संग्रामपुर, जिला बुलडाना, महाराष्ट्र से सम्बन्धित क्रम संख्या 21 के सामने की प्रविष्टि का खोप कर दिया जायगा और उक्त आदेश की प्रविष्टियों की क्रम संख्याओं में परिवर्तन किए बिना, तारीख 9 जून, 1992 से ऐसा त्राप किया गया माना जायेगा।

[सं. 76/महा.वि.स./108-90]

आदेश से,
बलवंत सिंह, सचिव

New Delhi, the 9th June, 1993

CORRIGENDUM

N.O. 96.—In Commission's order No. 76/MT-LA/92(736-821), dated 9th June, 1992, the entry against serial No. 21 relating to Gawande Vasanti Shrikant (W), At Karmoda, P.O. Ladnapur, Tq. Sangrampur, Distt. Buldana, Maharashtra shall be omitted and shall be deemed to have been so omitted with effect from 9th June, 1992 without changing the serial numbers of the entries in the said order.

[No. 76/MT-LA/108/90]

By Order,
BALWANT SINGH, Secy.